

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7124

BILL NUMBER: HB 1299

NOTE PREPARED: Feb 20, 2006

BILL AMENDED: Jan 25, 2006

SUBJECT: Financial Institutions.

FIRST AUTHOR: Rep. Bardon

FIRST SPONSOR: Sen. Paul

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill has the following provisions:

Miscellaneous Provisions- The bill specifies that provisions of the Uniform Consumer Credit Code concerning: (1) permissible charges with respect to consumer loans; (2) required disclosures to consumers; (3) limitations on agreements and practices; and (4) enforcement actions by the Department of Financial Institutions; apply to small loans made to Indiana residents by out-of-state creditors. The bill provides that certain provisions of the Uniform Consumer Credit Code that apply to a person undertaking collection of payments from, or enforcement of rights against, a debtor in a consumer loan do not apply to licensed collection agencies. The bill defines an "affiliate" of a financial institution. The bill specifies that certain minimum charges that a seller or lender may impose with respect to consumer sales or loans may be imposed only if the borrower prepays in full the sale or loan. The bill specifies that a person, other than a supervised financial organization, may not do either of the following without obtaining a license from the Department of Financial Institutions (Department): (1) Take assignments of consumer loans. (2) Collect payments from debtors.

Licensing- The bill makes the following changes with respect to various licenses issued by the Department. The bill: (1) Allows the Department to request evidence of compliance with applicable statutes at the time of application for a license, upon license renewal, or at other times determined by the Director of the Department (Director). (2) Allows the Department to deny an application for an initial license if the application is submitted on behalf of, or for the benefit of, a person who does not qualify for a license. (3) Requires a licensee to pay all reasonable costs of an investigation or examination of the licensee by the Department, regardless of the number of days the investigation or examination takes.

Small Loans- The bill provides that a small loan is considered paid in full upon: (1) the presentment of a check for payment from an account of the borrower; or (2) the lender's exercise of an authorization to debit the borrower's account; rather than upon actual payment by the drawee financial institution. The bill provides that after a borrower's fifth consecutive small loan, another small loan may not be made to the borrower within seven days after the fifth loan is paid in full. (Current law provides that another small loan may not be made within seven days after the due date of the fifth loan.) The bill prohibits a lender from seeking the following upon a borrower's default on a small loan: (1) Attorney's fees. (2) Treble damages. (3) Prejudgment interest. (4) Damages allowed for dishonored checks under any law other than the small loan act.

Financial Institutions & Life Insurance- The bill sets forth the circumstances in which a bank, trust company, savings association, or savings bank may purchase and hold life insurance.

Confusingly Similar Names- The bill prohibits a person from using: (1) the name of an existing mortgage lender; or (2) a name confusingly similar to that of an existing mortgage lender; in marketing materials or solicitations.

Credit Agreements- The bill specifies that a credit agreement includes an agreement to modify a credit agreement. The bill specifies that a debtor in a credit agreement may assert: (1) a claim for legal or equitable relief; or (2) a defense in a claim; arising from a credit agreement only if the credit agreement is in writing and signed by the parties. (Current law does not specify that a debtor may assert a defense in a claim arising from a credit agreement only if the credit agreement is in writing and signed by the parties.)

Investigation of Money Laundering- The bill requires the following to comply with all state and federal money laundering laws: (1) certain financial institutions; (2) pawnbrokers; (3) money transmitters; and (4) licensed check cashers. The bill requires the Department to: (1) investigate potential violations of state and federal money laundering laws; (2) enforce compliance with state money laundering laws; and (3) enforce compliance with federal money laundering laws or refer suspected violations to federal regulators, in accordance with federal law.

Real Estate Acquisition- The bill allows a bank or trust company to acquire real estate to be used: (1) partly as a branch or principal office; and (2) partly as rental property for one or more lessees. (Current law does not allow such real estate to be: (1) used as a principal office; or (2) rented to more than one lessee.)

Name Other than Official Entity Name- The bill provides that a financial institution may do business in Indiana using a name other than its official entity name.

Electronic Banking Activity- The bill establishes criteria for the Director to use to determine whether an electronic activity is authorized as part of, or incidental to, a financial institution's business.

Appointment of Conservators- The bill allows the Department to appoint conservators for credit unions and corporate fiduciaries under certain circumstances. The bill establishes the powers and duties of a conservator.

Pawn Brokers- The bill changes the time within which a pawnbroker must request approval from the Department of Financial institutions to relocate or add a business location from 90 days to 30 days before the proposed relocation or addition.

Director as Voting Member of Commission- The bill provides that the Director serves as an ex officio, voting

member of the Department. The bill repeals current law governing the enforcement of sales competition.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Summary-* The current level of resources of the Department should be adequate to carry out the administrative provisions of the bill. The following paragraphs provide further description for selected provisions of the bill.

Licensing- The Department would be able to charge a licensed institution all costs for examinations and investigations, regardless of the number of days an examination or investigation requires. The charge would be according to a fee schedule adopted by the Department. Under current fee schedules (effective until June 30, 2006) the Department allows up to three days of free examinations, depending on type of licensed institution. The impact of this provision to the Department's expenditures would depend on future fee schedules adopted by the Department.

Appointment of Conservators- Under the bill, the Department would have the option to appoint a conservator over a credit union or corporate fiduciary. The bill would require a conservator appointed by the Department to place with the Department a bond or security for the duration of their appointment. Additionally, a conservator would have to reimburse the Department for all expenses made by the Department in connection with the conservator.

Director as Voting Member of Department- This provision does not change the number of members of the Financial Institutions Department (currently seven). The provision would remove one lay member to be replaced by the Director of the Department. (Members currently receive an annual salary of \$4,000 and receive travel and business expense reimbursement.) However, under the bill, a member that is either a state officer or employee would not receive the \$4,000 salary. Therefore, this provision should reduce Department expenditures by \$4,000 per year.

Background Department of Financial Institutions- The Department of Financial Institutions was appropriated \$7.4 M in dedicated funds in FY 2006. The Department is authorized for 73 full-time employees and seven intermittent employees (Department board members) with a total personal services appropriation of \$5.9 M in FY 2006.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Financial Institutions.

Local Agencies Affected:

Information Sources: Department of Financial Institutions website; State Budget Agency: BUDSTARS.

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